

AMENDED IN SENATE APRIL 11, 2013

SENATE BILL

No. 289

Introduced by Senator Correa

February 14, 2013

An act to amend Sections 23152 and 23153 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 289, as amended, Correa. Vehicles: driving under the influence: drugs.

Existing law prohibits a person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or who has 0.08% or more, by weight, of alcohol in his or her blood, or who is addicted to the use of any drug, to drive a vehicle. Existing law also makes it unlawful to drive under the influence and cause bodily injury to another person.

This bill would make it unlawful for a person to drive a motor vehicle if his or her blood contains any ~~detectable amount of a~~ drug classified in Schedules I, II, III, or IV of the California Uniform Controlled ~~Substance~~ *Substances* Act, unless the drug was consumed in accordance with a valid prescription ~~issued to the person by a licensed health care practitioner, as defined~~. By expanding the scope of the crime of driving under the influence of a drug, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23152 of the Vehicle Code, as amended
2 by Section 2 of Chapter 753 of the Statutes of 2012, is amended
3 to read:

4 23152. (a) It is unlawful for a person who is under the
5 influence of any alcoholic beverage to drive a vehicle.

6 (b) It is unlawful for a person who has 0.08 percent or more, by
7 weight, of alcohol in his or her blood to drive a vehicle.

8 For purposes of this article and Section 34501.16, percent, by
9 weight, of alcohol in a person's blood is based upon grams of
10 alcohol per 100 milliliters of blood or grams of alcohol per 210
11 liters of breath.

12 In any prosecution under this subdivision, it is a rebuttable
13 presumption that the person had 0.08 percent or more, by weight,
14 of alcohol in his or her blood at the time of driving the vehicle if
15 the person had 0.08 percent or more, by weight, of alcohol in his
16 or her blood at the time of the performance of a chemical test
17 within three hours after the driving.

18 (c) It is unlawful for a person who is addicted to the use of any
19 drug to drive a vehicle. This subdivision shall not apply to a person
20 who is participating in a narcotic treatment program approved
21 pursuant to Article 3 (commencing with Section 11875) of Chapter
22 1 of Part 3 of Division 10.5 of the Health and Safety Code.

23 (d) It is unlawful for a person who has 0.04 percent or more, by
24 weight, of alcohol in his or her blood to drive a commercial motor
25 vehicle, as defined in Section 15210.

26 In any prosecution under this subdivision, it is a rebuttable
27 presumption that the person had 0.04 percent or more, by weight,
28 of alcohol in his or her blood at the time of driving the vehicle if
29 the person had 0.04 percent or more, by weight, of alcohol in his
30 or her blood at the time of the performance of a chemical test
31 within three hours after the driving.

32 (e) It is unlawful for a person who is under the influence of any
33 drug to drive a vehicle.

34 (f) It is unlawful for a person to drive a vehicle if his or her
35 blood contains any ~~detectable amount of a~~ drug classified in

Schedule I, II, III, or IV under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), unless the drug was consumed in accordance with a valid prescription ~~issued to the person by a licensed health care practitioner~~. *For purposes of this subdivision, "valid prescription" means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by a practitioner who has examined the patient or by a covering practitioner.*

(g) It is unlawful for a person who is under the combined influence of any alcoholic beverage and drug to drive a vehicle.

(h) This section shall become operative on January 1, 2014.

SEC. 2. Section 23153 of the Vehicle Code, as amended by Section 5 of Chapter 753 of the Statutes of 2012, is amended to read:

23153. (a) It is unlawful for a person, while under the influence of any alcoholic beverage to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(b) It is unlawful for a person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after driving.

(c) In proving the person neglected any duty imposed by law in driving the vehicle, it is not necessary to prove that any specific section of this code was violated.

(d) It is unlawful for a person, while having 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210, and concurrently to do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which act or neglect

1 proximately causes bodily injury to any person other than the
2 driver.

3 In any prosecution under this subdivision, it is a rebuttable
4 presumption that the person had 0.04 percent or more, by weight,
5 of alcohol in his or her blood at the time of driving the vehicle if
6 the person had 0.04 percent or more, by weight, of alcohol in his
7 or her blood at the time of performance of a chemical test within
8 three hours after driving.

9 (e) It is unlawful for a person, while under the influence of any
10 drug, to drive a vehicle and concurrently do any act forbidden by
11 law, or neglect any duty imposed by law in driving the vehicle,
12 which act or neglect proximately causes bodily injury to any person
13 other than the driver.

14 (f) It is unlawful for a person to drive a vehicle if his or her
15 blood contains any ~~detectable amount of a~~ drug classified in
16 Schedule I, II, III, or IV under the California Uniform Controlled
17 Substances Act (Division 10 (commencing with Section 11000)
18 of the Health and Safety Code), unless the drug was consumed in
19 accordance with a valid prescription ~~issued to the person by a~~
20 ~~licensed health care practitioner~~. *For purposes of this subdivision,*
21 *“valid prescription” means a prescription that is issued for a*
22 *legitimate medical purpose in the usual course of professional*
23 *practice by a practitioner who has examined the patient or by a*
24 *covering practitioner.*

25 (g) It is unlawful for a person, while under the combined
26 influence of any alcoholic beverage and drug, to drive a vehicle
27 and concurrently do any act forbidden by law, or neglect any duty
28 imposed by law in driving the vehicle, which act or neglect
29 proximately causes bodily injury to any person other than the
30 driver.

31 (h) This section shall become operative on January 1, 2014.

32 SEC. 3. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O